

MAR 31 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JURGITA VENSLOVAITE; JULIUS
ULIANSKAS,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-72024

Agency Nos. A097-103-340
A097-103-341

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Jurgita Venslovaite and her husband, natives and citizens of Lithuania, petition for review of the Board of Immigration Appeals' order dismissing their appeal from an immigration judge's ("IJ") decision denying their application for

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

asylum and withholding of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Zehatye v. Gonzales*, 453 F.3d 1182, 1184-85 (9th Cir. 2006), and we deny the petition for review.

Substantial evidence supports the agency’s denial of asylum because the two attacks on Venslovaite did not rise to the level of past persecution, *see Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003), and she failed to establish a well-founded fear of future persecution, *see Nahrvani v. Gonzales*, 399 F.3d 1148, 1154 (9th Cir. 2005) (fear of future persecution too speculative where petitioner failed to substantiate claim that government unable or unwilling to control the people that harassed her).

Because Venslovaite failed to establish eligibility for asylum, she necessarily failed to meet the more stringent requirements for withholding of removal. *See Zehatye*, 453 F.3d at 1190.

We do not consider Venslovaite’s eligibility for relief under the Convention Against Torture (“CAT”), because the IJ never addressed CAT relief in his decision. *See Navas v. INS*, 217 F.3d 646, 658 n.16 (9th Cir. 2000) (“this court cannot affirm the [agency] on a ground upon which it did not rely.”) (citation omitted).

PETITION FOR REVIEW DENIED.